IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Crl.Rev.Pet.No. 223 of 1999()

CRA.8/1995 of I ADDL. SESSIONS COURT, PALAKKAD
CC.16/1992 of CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD
.....

REVN. PETITIONER: APPELLANT/ ACCUSED NO.2

SIVAN, S/O.RAJAN, KOLAMADA VEEDU,
KOZHINJIRAM KADU, PALLATHERI,
PALAKKAD.

BY ADV. SRI.P.RAMAKRISHNAN NAIR

RESPONDENT: COMPLAINANT

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
CRIME NO.142/90 MALAMPUZHA POLICE STATION.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/07/2007, ALONG WITH CRL.RP.226/1999 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.223/1999

ORDER ON CRL.MP. NO.823/1999 IN CRL.RP.223/1999

DISMISSED

20.07.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

tss

K.R. UDAYABHANU, J.

CRL.R.P.NOS. 223 & 226 OF 1999

DATED THIS THE 20th July 2007

ORDER

The revision petitioner in Crl.R.P.No.226/1999 is the first accused and the revision petitioner in Crl.R.P.No.223/1999 is the 2nd accused in C.C.No.16/1992 in the file of the Chief Judicial Magistrate Cout, Palakkad with respect to the offences under Sections 394 read with Section 34 I.P.C. Although charge sheeted also for the offence under section 363, the accused/revision petitioners were acquitted for the above offence. The sentence imposed for the offence under Section 394 I.P.C. is to undergo rigorous imprisonment for three years.

2. The prosecution case is that on on 14-12-1990 at 10 a.m. the accused abducted CW1, a lady from her residence, took her to Kava near Malampuzha and committed robbery of her gold chain worth Rs.14,000/- and in the course of transaction caused hurt to her.

3. The evidence adduced in the matter consisted of the testimony of Pws.1 to 20 and Exts.P1 to P15 and Mos.1 to 5.

The defence got marked Exts.D1, D2 and D2(a).

It is seen that PW1 has sustained only two abrasions on her neck while the gold chain worn by her was snatched away by the accused . MO.1 locket of the chain was recovered from the accused at the time of arrest. As per confession statement of A1, the police were led to a jewellery and the owner of the shop produced ingot made out of the gold chain. PW5, taxi driver in whose taxi the accused and PW1 travelled and Pws.7 and 8, the employees of the jewellery have supported the prosecution. PW10, a person who allegedly introduced A1 to the jwellery has not supported the prosecution. The witnesses to the recovery were also examined. In view of the above evidence that included the direct evidence of Pws.1 and 5, I find that the prosecution has proved beyond reasonable doubt the alleged offence. Hence, the conviction is confirmed.

4. Counsel for the revision petitioner has pleaded for leniency pointing out that about 17 years have elapsed since the date of the incident and that the accused have no other antecedents. It is also submitted that the accused is facing the

criminal proceedings so far and that he has a family to look after and the only income is that of the revision petitioners. In the circumstances, the sentence is modified to simple imprisonment for six months and to pay a fine of Rs.5,000/- each and in default to undergo simple imprisonment for three months each for the offence under Section 394 read with Section 34 I.P.C. The Crl.revision petitions are disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NOS. 223 & 226 OF 1999

ORDER

20-7-2007